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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,146	04/13/2001	Ronald A. Katz	6646-114N8	4440
35554	7590	08/25/2004	EXAMINER	
REENA KUYPER, ESQ. BYARD NILSSON, ESQ. 9220 SUNSET BOULEVARD SUITE 315 LOS ANGELES, CA 90069			WOO, STELLA L	
		ART UNIT		PAPER NUMBER
		2643		
DATE MAILED: 08/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/835,146	KATZ, RONALD A.
	Examiner	Art Unit
	Stella L. Woo	2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 08 June 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 22-85 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 22-85 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 13 April 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed June 7, 2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because a legible copy of each reference has not been provided. The submitted compact discs contain files which are not in ASCII. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section' 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 52-57, 60-68 are rejected under 35 U.S.C. 102(e) as being anticipated by Szlam et al. (US 4,797,911, hereinafter “Szlam”) for the same reasons given in the last Office action and repeated below.

Szlam discloses method for controlling voice-data communication comprising:

interfacing certain individual callers (callers equipped with DTMF keypad telephones are interfaced with trunk interface unit 10a; col. 11, line 54 – col. 12, line 14); prompting (via message player 10a9; col. 12, lines 17-28; col. 13, lines 1-22); receiving (the calling party keys in his telephone number using his DTMF keypad; col. 12, lines 26-28; col. 13, lines 18-20); comparing (mainframe 16 is checked using the calling party telephone number to determine whether the calling party is an existing client; col. 12, lines 39-44); utilizing the caller identification data (the calling telephone number is used to retrieve full customer account information stored in mainframe 16; col. 12, lines 55-64; col. 13, lines 18-36); transferring and displaying (telephone number or account number information entered by a caller using DTMF keys is sent to an operator terminal, after which the number is used to retrieve and display full customer account information stored in the mainframe; col. 12, lines 55-66; col. 13, lines 18-36).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 22-47, 49-51, 69-75, 77-80, 82-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szlam in view of Barger, Jr. et al. (US 4,071,698, hereinafter “Barger”) for the same reasons given in the last Office action and repeated below.

Szlam discloses a method for controlling voice-data communications comprising: receiving (via ANI decoder; col. 12, lines 29-39); cuing (via message player 10a9; col. 13, lines 1-22); selectively identifying (via trunk interface control unit 10a13); recording (account information is stored in mainframe 16); and transferring and displaying (telephone number or account number information entered by a caller using DTMF keys is sent to an operator terminal, after which the number is used to retrieve and display full customer account information stored in the mainframe; col. 12, lines 55-66; col. 13, lines 18-36), wherein the operator terminal is capable of entering other data to facilitate completion of the call (the operator can enter any necessary changes, addition or deletions via keyboard 12a6; col. 16, lines 18-24; col. 18, lines 28-46).

Szlam differs from claims 22-47, 49-51, 69-75, 77-80, 82-85 in that it does not specify testing a credit card number for approval. However, Szlam is directed to a customer account servicing system which allows for sales transactions (placing an order from a catalog or advertisement; col. 1, lines 17-20, 45-48) and Barger teaches the desirability of testing a customer identification number (credit card number is verified; col. 4, lines 61-67; col. 9, lines 40-45) such that it would have been obvious to an artisan of ordinary skill to incorporate such testing, as taught by Barger, within the system of Szlam in order to verify a caller's credit card number before allowing order placement.

Regarding claims 23, 25-27, 31-32, Barger teaches limiting use and recognizing a first time caller (col. 11, lines 18-47).

Regarding claims 40-43, Szlam provides for storing audio signals for later playback to an operator for entry into a database (col. 17, lines 27-46).

Regarding claim 83-85, Barger provides for automatically initiating operator assistance to push-button callers whose credit cannot be validated by the credit verification function or those determined to be freeloaders or those who key in a specified code requesting operator assistance are automatically connected with an attended terminal 39 (col. 9, lines 42-45; col. 11, lines 34-36; col. 9, lines 38-40).

5. Claims 48, 76, and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szlam in view of Barger, and further in view of Stephenson, Jr. et al. (US 3,727,186, hereinafter "Stephenson") for the same reasons given in the last Office action and repeated below.

The combination of Szlam and Barger differs from claims 48, 76 and 81 in that although it does teach credit card authorization (Barger, col. 8, lines 60-65; col. 9, lines 42-44), it does not specify the credit verification process as including testing for negative file data. However, Stephenson teaches that it is old and well known in the credit authorization art to test for negative file data (warning file 30) when determining whether or not a credit card number is authorized (col. 5, lines 22-28; col. 6, lines 30-37) and for referring the call to an operator in the event the credit card account is on the warning list (col. 5, lines 22-55; col. 6, lines 30-65; col. 8, lines 23-47) such that it would have been obvious to an artisan of ordinary skill to test for negative file data and refer such "negative" calls to an operator, as taught by Stephenson, within the combination of Szlam and Barger so that calls providing credit card numbers which have been flagged as invalid can be forwarded to an operator for a further authorization check.

6. Claims 58 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szlam in view of Schlafly (US 4,734,858) for the same reasons given in the last Office action and repeated below.

Szlam differ from claims 58 and 59 in that although it provides for storing customer order information (Abstract), it does not specify the data including color or size. However, Schlafly teaches that it is well known in a telephone ordering system to specify a color and size as part of the order information (col. 7, lines 32-34) such that it would have been obvious to incorporate the use of color and size data, as taught by Schlafly, within the ordering system of Szlam when the item being ordered requires a color or size specification.

Response to Arguments

7. Applicant's arguments filed June 8, 2004 have been fully considered but they are not persuasive. Applicant argues with regard to the testing step, "the Szlam patent was applied by reason of a comparison...[which] is understood to involve identifying existing clients." The examiner disagrees. The testing step is recited in independent claims 22 and 80. These claims were rejected under 35 USC 103 over Szlam in view of Barger. The examiner had relied upon Barger, not Szlam, for its teaching of the testing step (see last Office action, page 4, second paragraph).

Regarding the display, the operator terminal displays information collected from the caller (col. 13, lines 22-25) and allows operator entry of information via the keyboard (col. 11, lines 10-18).

Conclusion

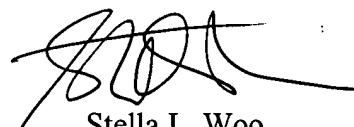
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (703) 305-4395. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stella L. Woo
Primary Examiner
Art Unit 2643